
IN RE: UNITHERM FOOD SYSTEMS, INC. and JENNIE-O-FOODS, INC. vs.
SWIFT-ECKRICH, INC.

Case No. CIV-01-347-C

DEPOSITION OF PAUL CORRIGAN

October 23, 2001

Condensed Transcript Prepared By
Frank L. Peterson Reporting Service
P.O. Box 904188
Tulsa, Oklahoma 74105-0188
Phone: (918) 745-0303 * * * Fax: (918) 745-0318

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF OKLAHOMA
3
4 UNITHERM FOOD SYSTEMS, INC.,)
5 an Illinois corporation; and)
6 JENNIE-O FOODS, INC.,)
7 a Minnesota corporation,)
8 Plaintiffs,)
9 vs.) Case No. CIV-01-347-C
10 SWIFT-ECKRICH, INC. d/b/a)
11 CONAGRA REFRIGERATED FOODS,)
12 a Delaware corporation,)
13 Defendant.)
14
15 THE DEPOSITION OF PAUL CORRIGAN,
16 taken on behalf of the Plaintiffs, on the 23rd day of
17 October, 2001, pursuant to Federal Rules of Civil
18 Procedure, at the law offices of Fellers, Snider,
19 Blankenship, Bailey & Tippens, 321 South Boston, Suite 800,
20 Tulsa, Oklahoma, before Michele West, a Certified
21 Shorthand Reporter in and for the State of Oklahoma.
22
23 APPEARANCES:
24 For the Plaintiffs: MR. DENNIS D. BROWN
25 Fellers, Snider, Blankenship,
Bailey & Tippens
321 South Boston, Suite 800
Tulsa, Oklahoma 74103-3318
Also Present: MR. ROBERT A. SCHROEDER
Christie, Parker & Hale
350 West Colorado Boulevard
Pasadena, California 91105
Also Present: MR. DAVID HOWARD

- 1 PAUL CORRIGAN.
2 after having been duly sworn to testify the truth, the
3 whole truth, and nothing but the truth, testified as
4 follows:
5 DIRECT EXAMINATION
6 BY MR. BROWN:
7 Q. Mr. Corrigan, would you state your full name,
8 please.
9 A. Paul Christopher Corrigan.
10 Q. Could you spell that last name, please?
11 A. C-O-R-R-I-G-A-N.
12 Q. And what is your residence address?
13 A. It's 99 Camden Road, C-A-M-D-E-N, Camden Road.
14 London, Northwest One 90-U, I believe.
15 Q. Okay. My name is Dennis Brown, and I represent the
16 plaintiffs in this case, which are Unitherm Food
17 Systems, Inc. and Jennie-O Foods Systems, Inc. I'm
18 going to ask you some questions. You have a very
19 nice Irish brogue. I have a distinctive west Texas
20 twang, so I'm going to try and speak slowly and
21 enunciate. If you would do the same I would
22 appreciate it, as I know Michele would of course.
23 A. Of course.
24 Q. Okay. It's also important, Mr. Corrigan, that you
25 answer audibly at all times rather than just

1 INDEX
2 Page No.
3 Direct Examination by Mr. Brown ----- 3
4 *****
5
6 Deposition Exhibit
7 Numbers
8 1 ----- 19
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
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- 1 nodding the head and things like that.
2 Mr. Corrigan, if you would, please, summarize
3 for us your work history.
4 A. Okay. I left school at about 16 years of age, and
5 I was farming for about two years. Then I became
6 an apprentice to a butcher for two years. And I
7 became an approver for another company for one
8 year. And I immigrated to London, and I was
9 working there for a sausage manufacturer, a cooked
10 meat manufacturer.
11 Q. Who was that, Mr. Corrigan?
12 A. Bridger. It's not there anymore. His name is
13 Harry Bridger.
14 Q. Okay. Go ahead.
15 A. And then I worked with him for about a year and a
16 half. And then I went to Canada for about a year
17 and a half. And I came back from Canada, and I
18 worked for two companies in the butcher shop. The
19 second company I worked for -- one company for two
20 years, and the second company I started working
21 with them for a couple of years, and then he
22 decided to sell us the shops. So my brother was
23 working in one shop, I was working in the other.
24 And --
25 Q. How many shops were there?

<p style="text-align: right;">Page 5</p> <p>1 A. Just those two shops. He sold us a shop each and 2 we bought them together.</p> <p>3 Q. What was the business of those?</p> <p>4 A. Butcher shops. Meat shops is what you call them 5 here. And we worked there on our own, and we 6 started -- in three or four years we started 7 building up shops. We ended up with 11 shops and a 8 small little sausage factory. And we were very 9 successful about 15 or 20 years it was. And the 10 meat industry, the small shops, started going down 11 the hill. We were closing the shops because the 12 supermarkets had come in. And at the present 13 moment, I've got one shop and a small sausage 14 factory. And that's it.</p> <p>15 Q. What's the name of your company?</p> <p>16 A. Corrigan Brothers Butcher Limited.</p> <p>17 Q. Where were your shops located?</p> <p>18 A. They're in about six miles of Camden Town in 19 London. One was in Kilburn High Road. One was in 20 Roberts Street. One was in Camden Road. One was 21 in Fortress Road. One was in Chapman Road. One 22 was in Halloway Road. One was in Seven Sisters 23 Road. One was in Woodgreen. Was that 10 or 11? 24 One was in Muzzle Hill.</p> <p>25 Q. Okay. And when you purchased your factory, what</p>	<p style="text-align: right;">Page 7</p> <p>1 names of customers who I thought might do business 2 with him or he could sell stuff to.</p> <p>3 Q. What types of orders did you place with Mr. Howard?</p> <p>4 A. Well, a couple of stainless steel tables and sinks, 5 stainless steel sinks. And I'm not too sure --</p> <p>6 Q. Was Mr. Howard with Unitherm at the time?</p> <p>7 A. It was his own business. I'm not so sure of what 8 the other name was called. I presume it -- he knew 9 my name and when he was sending out his business, I 10 believe Unitherm was on the invoice.</p> <p>11 Q. What was that last thing?</p> <p>12 A. On his invoice.</p> <p>13 Q. Okay. And after that, when did you next encounter 14 Mr. Howard?</p> <p>15 A. Well, I suppose we would meet maybe once or twice a 16 year at trade fares or in London, he come to see 17 me. And over the years we became friends, and we 18 ended up -- I went to a couple of exhibitions to 19 Germany when everything was doing well. He started 20 doing well.</p> <p>21 Q. When were the exhibitions in Germany?</p> <p>22 A. It was one in Germany and one in France. And we 23 had -- I was over here in Chicago, and he came over 24 to Chicago. He personally asked me to come and 25 stand on the stands.</p>
<p style="text-align: right;">Page 6</p> <p>1 did you -- when you began this business, what did 2 you produce at your factory?</p> <p>3 A. We were producing sausages, black and white, 4 puddings and hams.</p> <p>5 Q. What type of hams?</p> <p>6 A. Just ordinary cooked ham in a bag. We sometimes 7 cooked one on the bone, of course.</p> <p>8 Q. What do you produce at your factory now?</p> <p>9 A. Just sausage, fresh English sausage.</p> <p>10 Q. What is your age, Mr. Corrigan?</p> <p>11 A. 73.</p> <p>12 Q. So would it be fair to say that you have been in 13 the meat industry your entire adult life?</p> <p>14 A. I would say that's correct.</p> <p>15 Q. When did you first meet Mr. David Howard?</p> <p>16 A. I would say approximately about 15 or 16 years ago.</p> <p>17 Q. And where was that?</p> <p>18 A. Well, he came to my shop. He was starting to sell 19 equipment to butchers, like steel tables, and 20 sinks, stainless steel sinks, and drains. And he 21 came down -- he knew I was in the business. I 22 don't know how he knew, but he came anyway. And we 23 got to chatting, and I thought he was very 24 presentable and I'd like to help. So I gave him a 25 few small orders. And I also gave him quite a few</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. Do you recall when the exhibitions in Germany and 2 France occurred?</p> <p>3 A. I don't know. I would have to really go back and 4 think about it. But there is an exhibition every 5 two years in France, and there's an exhibition 6 every two years in Germany, Frankfurt and Paris. 7 And I believe y'all have them every two years.</p> <p>8 Q. Did Mr. Howard ever approach you regarding any 9 other business?</p> <p>10 A. Well, we were in Manchester -- there was an 11 exhibition in Manchester, yes -- or Birmingham -- 12 an exhibition in Birmingham, they have one there 13 every couple of years as well. And I happened to 14 be there. And we were talking and mentioned I used 15 to smoke hams myself in the cooker, wood burning 16 smoke, you know. And I was talking about I had 17 seen -- I had seen the Smoke Liquid on the 18 exhibition. Somebody was selling it on the 19 exhibition at the time. I just mentioned it to 20 him. And we didn't talk too much about it. But 21 then after this, he came up and asked me if I would 22 send him a couple of cooked hams. And I sent them 23 about between four or six, I'm not too sure. And I 24 believe he (inaudible) them and took them back to his factory. And he sent me down a couple</p>

1 afterwards to look at the color and the texture and
 2 the flavor, which I tried. And they looked very,
 3 very nice. Most hams when they come out of the
 4 bag, they're always snow white like that. They're
 5 not very attractive looking. But by running the
 6 Smoke Liquid, it give them a nice golden brown
 7 color, a nice firm skin all around. And he said he
 8 just -- he had a cooker there for roasting chickens
 9 and lamp chops and stuff like that. And he said --
 10 I asked him how he had done this. And he said that
 11 he ran them through the cooker.

12 Q. Do you recall what that -- did he describe that
 13 cooker? Did he tell you what that cooker was?

14 A. -- is what he called it. He still has the same
 15 cooker, but see, I haven't been in contact with him
 16 for quite a while and I wasn't dealing with the
 17 cooker at the time, you know.

18 Q. Was it a continuous oven?

19 A. It was a continuous. It was Rapid Flow was the
 20 name of it. Rapid Flow he called it. And then he
 21 said he ran it through the Rapid Flow. And I think
 22 he mentioned the fact that he put them through a
 23 really heavy strong heat lamp 500 or 600 degrees.
 24 He put it through very, very quickly with three to
 25 five -- five to 10 minutes, I believe, you know.

Page 9

Page 11

1 Q. And you said that you sent Mr. Howard some hams?
 2 A. I sent him some cooked hams in the bag.
 3 Q. Describe those hams for us.
 4 A. We used to put hams in a bag. A nylon bag it was,
 5 actually, and put them in the bag and cook them in
 6 the bag. And when they were cooked, there used to
 7 be a half a pound of residue left in the bag curing
 8 the ham.
 9 Q. How would you describe that residue?
 10 A. Well, it's a jelly. I used to call it a jelly,
 11 from the fat in that, you know. The fat would come
 12 out of the cooking water. That's a jelly, I
 13 describe it as, anyway. And you took that off,
 14 took the bag off the ham, washed it. We would wash
 15 it off and then we put in our fridge.
 16 Q. Okay. So you sent Mr. Howard some hams in some
 17 nylon bags?
 18 A. The nylon bag was a whole lot easier than anything
 19 else because it made it very hygienic.
 20 Q. Okay. And how many hams did you send Mr. Howard?
 21 You said four to six?
 22 A. Four to six, I'm not real sure of the figure.
 23 Q. What did he propose to do with those hams?
 24 A. Well, I think he was going to experiment and see
 25 could he put them -- dipped them in the smoke and

Page 10

1 And I think he experimented a bit, I don't know, to
 2 get the right color on the hams.
 3 Q. Okay. Do you know when this occurred? Do you
 4 recall when this occurred?
 5 A. Just about in 1989, I think, around about that
 6 time. I can't be sure of the dates.
 7 Q. Was this before Mr. Howard moved to the United
 8 States? .
 9 A. I believe it was.
 10 Q. And you mentioned a smoke -- I think you said
 11 Smoked Liquid?
 12 A. Smoke Liquid. They were selling the Smoke Liquid
 13 product at the exhibition. And I just mentioned to
 14 David at the time how smoking hams is very -- the
 15 old-fashion way of smoking hams was very intensive,
 16 and you had to get the hams and put them in a mesh
 17 and hang them in the fridge and take them out after
 18 you had them smoked for eight hours or so. And it
 19 wasn't a very hygienic way of doing the job.
 20 Q. Do you recall who was selling this Liquid Smoke?
 21 A. I don't know the name. I knew at the time, but I
 22 don't know now. I thought it was a German firm,
 23 but I'm wasn't sure.
 24 Q. You think it was a German firm?
 25 A. I don't know for sure.

Page 12

1 run them through and see if he could put a nice
 2 color on the ham and make it more attractive to
 3 look at. They didn't look very attractive. What
 4 we used to do in London is with the ham we used to
 5 put some bread crumbs all over them to make them
 6 look a little attractive. But David suggested if
 7 you put that smoke color, that will do the job.
 8 Q. Were these whole muscle hams?
 9 A. They were whole muscle hams, yeah, approximately 10
 10 to 12 pounds.
 11 Q. Did Mr. Howard describe for you at that time any
 12 type of procedure in which he intended to use to
 13 accomplish that?
 14 A. He mentioned he washed the jelly off first and
 15 dipped them in the Smoke Liquid.
 16 Q. How did he wash the jelly off?
 17 A. I think he had to spray it off. I presume, spray
 18 them off.
 19 Q. Spraying with what?
 20 A. Water.
 21 Q. Water.
 22 A. And I presume he dipped them by hand. I don't know
 23 at the time. It was only in its infancy this
 24 new -- this method, you know.
 25 Q. He dipped them in the --

<p style="text-align: right;">Page 13</p> <p>1 A. In the Smoke Liquid.</p> <p>2 Q. In the Smoke Liquid. Now, did he tell you that he 3 dipped them in the Smoke Liquid or was going to dip 4 them in the Smoke Liquid?</p> <p>5 A. Yes. That's what he said. When I asked him how 6 did he do it, he said he put them in the Smoke 7 Liquid and put them under the cooker.</p> <p>8 Q. So I understand, you recall that he told you he was 9 going to dip them in the Smoke Liquid, but you 10 don't recall how he did that?</p> <p>11 A. Well, I presume he dipped them in by hand. I don't 12 know whether he would know, but that's the way it 13 would be done anyway.</p> <p>14 Q. But his description to you was that he was going to 15 dip them in --</p> <p>16 A. In the Smoke Liquid.</p> <p>17 Q. -- Smoke Liquid?</p> <p>18 A. Yeah.</p> <p>19 Q. All right. After he dipped these hams in the Smoke 20 Liquid, what did he do next?</p> <p>21 A. He said he ran them through his machine, uh-huh. 22 And he put it through a very high heat. And, I 23 believe, that he ran them very quick, which would 24 be between five and 10 minutes, but I'm not sure 25 exactly. He said about five to 10 minutes because</p>	<p style="text-align: right;">Page 15</p> <p>1 A. They retained the moisture. They hadn't dried out 2 at all. They were very nice in my estimate of the 3 flavor. Our hams were good anyway.</p> <p>4 Q. How would you describe them in terms of texture?</p> <p>5 A. The texture was nice. It was firm but not too 6 soft. It was nice and juicy, if you can use the 7 word juicy.</p> <p>8 Q. How would you describe them -- between the time you 9 sent them and received them back, how would you 10 describe them in terms of shrinkage?</p> <p>11 A. I don't think they shrank very much. I didn't 12 weigh them when they came back because I wouldn't 13 know what I was sending. The jelly in there could 14 be anything from half a pound to a pound, so I 15 didn't weigh them.</p> <p>16 Q. Did Mr. Howard discuss shrinkage with you?</p> <p>17 A. He talked that they hadn't shrank very much 18 himself. He said it's done a very good job.</p> <p>19 Q. Do you recall if Mr. Howard mentioned anything 20 about drying the product prior to dipping them in 21 the Smoke Liquid?</p> <p>22 A. I am not too sure. I presume he put them into -- 23 he rinsed them off and then put them into the wet 24 bath anyway. It would be wet anyway. In my 25 remembrance of what he said, he put them in and I</p>
<p style="text-align: right;">Page 14</p> <p>1 of the heat that he run them through. Any slower, 2 he would overcook the ham, you know, and it 3 wouldn't do the ham any good. But it gave them a 4 nice color, in my opinion.</p> <p>5 Q. And you testified that -- correct me if I'm wrong. 6 You said that the temperature was between 500 to 7 600 hundred degree Fahrenheit?</p> <p>8 A. Fahrenheit, yes, a very high heat.</p> <p>9 Q. And the residence time was between five and 10 10 minutes?</p> <p>11 A. That's correct, right.</p> <p>12 Q. What became of these hams that --</p> <p>13 A. He sent a couple down for me to have a look at.</p> <p>14 Q. And did you actually observe those hams?</p> <p>15 A. I observed those hams, and they looked very, very 16 nice.</p> <p>17 Q. Can you describe the appearance of the hams?</p> <p>18 A. Very nice golden brown color, nice and shiny on the 19 outside. And I sliced them, and I tested them. 20 And they tested very, very nice. I did think there 21 was slightly metallic taste off of them in the 22 beginning. I think that could be due to the smoke 23 solution we were using at that time.</p> <p>24 Q. Okay. How would you describe those hams with 25 respect to moisture?</p>	<p style="text-align: right;">Page 16</p> <p>1 am sure he had three or four minutes to get the 2 right --</p> <p>3 Q. But you don't recall if he said anything about 4 drying them off?</p> <p>5 A. Well, I presume, since they were going through the 6 cooker later on, the Rapid Flow.</p> <p>7 Q. After dipping in the Liquid Smoke?</p> <p>8 A. I think that would be sufficient.</p> <p>9 Q. Now, concerning the browning process that 10 Mr. Howard described to you, did you have any 11 knowledge of that browning process prior to the 12 time Mr. Howard described it to you?</p> <p>13 A. No, not whatsoever.</p> <p>14 Q. Have you since become aware of anyone who had 15 knowledge of that browning process prior to the 16 time that Mr. Howard --</p> <p>17 A. Not to my knowledge.</p> <p>18 Q. Are you familiar with the -- you mentioned that the 19 oven used was the Unitherm Rapid Flow oven. Are 20 you familiar with the Rapid Flow?</p> <p>21 A. I am familiar.</p> <p>22 Q. And how was that?</p> <p>23 A. I'm more familiar with it now than I was then, 24 actually. It was one of the first ones on the 25 market from what I could see. It was a simple --</p>

Page 17	Page 19
1 quite a good machine. And it was -- it was used 2 for cooking sausages and chickens and small 3 objects, you know. 4 Q. Have you actually observed it being used for any 5 application? 6 A. I have. 7 Q. What applications have you observed? 8 A. Well, I've mostly heard chickens. We cooked some 9 chickens and we cooked some sausages, we took to 10 Frankfort. We cooked stuff in Frankfort. And also 11 we cooked in -- no, we didn't go into Atlanta, did 12 we? We had them at Atlanta. No, we didn't work in 13 Atlanta. We used them for cooking in Paris, I was 14 cooking. 15 Q. Do you recall how much time -- 16 A. It wasn't smoking. It was cooking just -- 17 Q. Just cooking those products? 18 A. Yeah, I didn't see the smoking. Because there was 19 another occasion when he was up in Manchester and 20 was down in London and I wasn't going into the 21 factories. They wouldn't let you in the factories, 22 anyway. 23 Q. How much time elapsed between the time you 24 delivered these hams to Mr. Howard and the time 25 they were returned to you?	1 Plaintiffs' Deposition Exhibit 1. 2 (WHEREUPON. Plaintiffs' Deposition Exhibit No. 1 3 was marked.) 4 Q. (By Mr. Brown) Mr. Corrigan, I'm handing you 5 what's marked Plaintiffs' Deposition Exhibit 1, 6 which is the patent that is at issue in this case. 7 And it is US Patent No. 5,952,027 issued September 8 14, 1999. The inventor is listed as Prem Singh. 9 And the assignee is indicated on the cover as being 10 Swift-Eckrich of Downers Grove, Illinois. 11 Have you seen this patent, Mr. Corrigan? 12 A. No. 13 Q. You have not seen this patent? 14 A. Just -- no -- yes -- you mean -- 15 Q. Have you seen this patent before, not that copy 16 necessary, but have you seen the patent? 17 A. I saw the patent yesterday. 18 Q. I would like for you to turn, if you would, to 19 column 8, line 3, which begins with the words "I 20 claim," and then it has number one. Let me read 21 that to you here for the record. 22 A. I'm sorry. 23 Q. Column 8, it's on the last page. Column 8. Excuse 24 me, it's not the last page. The next to last page. 25 Line 3 where it begins "I claim." Do you see that?
Page 18	Page 20
1 A. I'd say about a week. 2 Q. Mr. Corrigan, did you or your company ever use the 3 process that Mr. Howard described? 4 A. No. We have a small company, smoking wasn't a big 5 thing in the small -- I was using people like 6 myself, they are only small shops. And the 7 supermarkets came and they were the people that 8 kept the (inaudible) for smoking and all other 9 types of foods that's on the market today. 10 Q. What type of products were important in your 11 particular niche? 12 A. My strong service was doing fresh pork sausages, 13 black and white pudding, and hams. We used to do 14 our own ham, nice moist ham. 15 Q. And you may have mentioned this, is this correct -- 16 you said that the type of hams that you primarily 17 sold in your stores had some sort of crumbs? 18 A. Oh, yes. We used to put -- most people put a bread 19 crumb on them to make them look nice, a nice 20 yellowish spectrum around them. But that was -- 21 some shops would do it, some wouldn't. You just 22 sprinkle them on the top before you start slicing 23 your ham to give it a nice appearance. But they 24 used to go soggy if you leave it on too long. 25 MR. BROWN: I'd like to mark this as	1 A. I see that. Okay. 2 Q. Let me read that for you. I'm going to read claim 3 one, which goes from line 4 to, it looks like, 4 about line 13. And it reads as follows: "A 5 process for browning precooked whole muscle meat 6 products comprising: Coating a browning liquid 7 pyrolysis product onto at least a portion of the 8 surface of a precooked whole muscle meat product 9 and then exposing the coated surface to an energy 10 source and selectively heating the coated surface" 11 -- 12 A. I'm sorry, can you just go back to -- you are on 13 one still, are you? 14 Q. I'm on one still. Do you want me to start over? 15 A. Yes, please do. I was jumping down. 16 Q. Where it starts "1" there on line 4. 17 A. Okay. 18 Q. Are we on the same spot, it says "a process"? 19 A. Yes. 20 Q. Okay. It reads as follows: "The process for 21 browning precooked whole muscle meat products 22 comprising: Coating a browning liquid pyrolysis 23 product onto at least a portion of the surface of a 24 precooked whole muscle meat product and then 25 exposing the coated surface to an energy source and

	Page 21	Page 23
1 selectively heating the coated surface of the whole 2 muscle meat product at a temperature and for a time 3 sufficient to develop a golden brown color on the 4 exposed surface without substantially shrinking the 5 precooked whole muscle meat product."		1 questions, I think. 2 You mentioned that, of course, you at one time 3 cooked hams in your factory; is that correct? 4 A. Yes.
6 I want to ask you, Mr. Corrigan, is this the 7 process which Mr. Howard described to you in 1989? 8 A. That is the process to the best of my knowledge. 9 Q. What is your understanding as to the meaning of the 10 term "liquid pyrolysis product"? 11 A. I don't know what the meaning of pyrolysis is. I 12 presume it's a name that's used for the Liquid 13 Smoke -- in Liquid Smoke, uh-huh. 14 Q. And presuming that it is Liquid Smoke, as you've 15 said, you say that this is the process which 16 Mr. Howard -- 17 A. This is the process. 18 Q. -- described to you? 19 A. Yes. 20 Q. Mr. Howard, I'd like for -- I mean, excuse me, 21 Mr. Corrigan, I would like for you to look at claim 22 10. It begins on line 41. Do you see that? 23 A. Ten? 24 Q. It's still in column 8. It's line 41. Do you see 25 the number 40 in the middle column there?		5 Q. And did you smoke them in your factory? 6 A. I would smoke in the factory, yes. 7 Q. Was that a batch-type process? 8 A. A batch -- well, you couldn't put a lot in them 9 because you have to hang them on rails and you have 10 to separate them to get the circulation of the air 11 and the smoke. 12 Q. At what temperature after cooking and prior to 13 smoking were your hams kept? What was the core 14 temperature? 15 A. We used to -- we used to run them at about 72. We 16 had a probe. We had a probe in one of the hams, 17 and you set the controls outside the cooler and you 18 cooked the hams for about five or six hours. 19 Q. And help me understand, were they 72 at the 20 beginning of the cooking process or after? 21 A. No, no. After. When they hit 72, the cooker goes 22 out. 23 Q. What was the temperature, the core temperature, of 24 the hams at the beginning of the cooking process? 25 A. Well, it was cold, of course. The normal meat
	Page 22	Page 24
1 A. You have to help me here again, I'm sorry. 2 Q. Claim 10? 3 A. Yes, sir. You said 40. 4 Q. Line 40, excuse me. It's claim 10, that's what I 5 want to read next. 6 A. That's better. 7 Q. And it reads as follows: "The process in 8 accordance with claim 2 wherein the energy source 9 is a circulating air oven, an impinging air oven, a 10 laser light source, a medium wavelength energy 11 infra red radiation source or a source of microwave 12 radiation." 13 Did the process which Mr. Howard described to 14 you in 1999 involve any of those types of energy 15 sources? 16 A. That's my understanding, yes. 17 Q. And I believe you testified earlier that he used 18 The Rapid Flow oven, and that is a circulating air 19 oven? 20 A. Circulating oven, that's correct. 21 MR. BROWN: Do you mind if we take a 22 little break? 23 MR. SCHROEDER: Go ahead. 24 (WHEREUPON, a brief recess was here taken.) 25 Q. (By Mr. Brown) Mr. Corrigan, just a couple more		1 temperature would be probably say 30 or 40. 2 Q. Thirty to forty degrees Fahrenheit? 3 A. If they're going in raw? You're talking about raw 4 meat going in, is that what you're saying? 5 Q. No. 6 A. The ham would be going in raw into the cooker. 7 Q. Into the cooker? 8 A. And then the cooker was acting as a smoker as well. 9 Q. Okay. Did you cook hams in the bag in your 10 factory? 11 A. Yes, I cook a ham in the bag. But if I wanted 12 smoke hams, I had to put them in the nets, because 13 if you put them in the bag in the cooker, the smoke 14 wouldn't go into them. 15 Q. Okay. Did you smoke precooked hams in your 16 factory? 17 A. No, we cooked the hams and then we put them in the 18 net. I gotcha. We put them in the net and then 19 hang them back in the cooker and into the smoker 20 and smoke them for three or four hours. 21 Q. When Mr. Howard described this browning process to 22 you in 1989, did he say anything about core 23 temperature increase of the products that he 24 browned for you? 25 A. He did. He said the core temperature was

Page 25	Page 27
1 insignificant in actual fact. Let's put it in my 2 language. It didn't raise the temperature of the 3 internal part of the ham. That's all, the cooker, 4 I mean. His cooker, you're talking about?	1 A. I believe it was '89. 2 Q. Now, when you had these discussions with Mr. 3 Howard, did Mr. Howard give you anything in writing 4 about this cooking process?
5 Q. Yes.	5 A. No, he didn't.
6 A. Yes, going through his cooker it went through 7 between five and 10 minutes, and the corresponding 8 temperature of the ham did not raise -- rise at 9 all, if you use the expression.	6 Q. Did you make any notes?
10 Q. All right.	7 A. No.
11 A. It didn't go up high.	8 Q. So there's nothing in writing?
12 MR. BROWN: I believe I have no further 13 questions. I'll pass the witness.	9 A. That's correct.
14 MR. SCHROEDER: Very good.	10 Q. And have you had any occasion to discuss this 11 process with Mr. Howard since he first told you 12 about it in 1989?
15 CROSS EXAMINATION	13 A. Mr. Howard rang me up and asked me if I would come 14 over to have this meeting.
16 BY MR. SCHROEDER:	15 Q. When was that, sir?
17 Q. Mr. Corrigan, my name is Bob Schroeder. And I'm 18 representing Swift-Eckrich in this case. You and I 19 have never met or spoken before; is that correct 20 sir?	16 A. About three weeks ago.
21 A. That's correct.	17 Q. All right. So between the time that he told you 18 about this process in '89 and the time that he 19 called you up about three weeks ago, did you have 20 any other discussions with him about the process?
22 Q. Now, you have been, I believe you said, a friend of 23 Mr. Howard's for 16 or 17 years?	21 A. Not about the process, nothing to do with it at 22 all.
24 A. Approximately, about that.	23 Q. So it was a period of over 10 years when you didn't 24 discuss this?
25 Q. And over the course of that time you've done some	25 A. It got out of my mind.
Page 26	Page 28
1 business together; is that right?	1 Q. So you're relying on your memory of what happened 2 in 1989?
2 A. That's right.	3 A. Yeah, yeah.
3 Q. And apart from that have you had any other 4 relationship with Mr. Howard?	4 Q. Now, when Mr. Howard contacted you about this, 5 approximately three weeks ago, could you tell us 6 what he said?
5 A. Yes. We became friends.	7 A. I'm sorry?
6 Q. Social friends?	8 Q. Could you tell us what he said at that time?
7 A. Social friends. When he come out to London. He 8 would stay at my house, yes.	9 A. He just said he had a court case coming up and he 10 wanted to know would I become a witness. And I 11 said what for. And he said for the smoke -- smoke 12 or the Rapid Flow cooker and that somebody had -- 13 over here had the patent. He had to take out a 14 patent on this. And, of course, his one was -- he 15 was doing this way before these other people took 16 the patent. And he was going -- from what I could 17 make out -- Mr. Howard was taking people to court 18 or somebody was taking him to court, I'm not sure 19 of that.
9 Q. So he stayed at your house how many times?	20 Q. So what you just told us is the information you got 21 from Mr. Howard?
10 A. Five or six times.	22 A. Yes.
11 Q. And you've been telling us today about some 12 information regarding a cooking process that 13 Mr. Howard gave to you in, I think, you said '86 or 14 '87; is that right?	23 Q. And he asked you to testify?
15 A. '89, I believe.	24 A. He asked me to testify.
16 Q. '89. How were you able to recall that specific 17 day?	25 Q. And at that time did you already have plans to come
18 A. To the best of my knowledge. Going back, he's been 19 over here quite a while, and it was around that 20 time anyway, '89.	
21 Q. Is that a very approximate date?	
22 A. It's an approximate date.	
23 Q. It could have been --	
24 A. It could be '87. It could be a year.	
25 Q. Could it have been later than '89?	

1 to the United States?
 2 A. I was coming to the exhibition anyway. Mr. Howard
 3 did say would I come to the exhibition as well.
 4 Q. And where was the exhibition?
 5 A. It's in Chicago.
 6 Q. Now, did you come at your own expense?
 7 A. No, Mr. Howard's.
 8 Q. He paid for you to come and to attend
 9 the exhibition?
 10 A. Yeah.
 11 Q. And then at some point did you meet with Mr. Howard
 12 to discuss these events from 1989?
 13 A. Since '89. Well, at the time, we had spoken about
 14 it, yes. And I think about that time, roughly, I
 15 had sent the hams up to him.
 16 Q. Well, we'll go back to 1989. But right now I'm
 17 interested in your more recent discussions with Mr.
 18 Howard. He called -- he telephoned you in England;
 19 is that correct?
 20 A. Yes.
 21 Q. And asked you to come to the United States?
 22 A. That's correct.
 23 MR. BROWN: Bob, if I could interrupt
 24 here. You need to speak a little bit louder,
 25 Mr. Corrigan. She's having a hard time.

Page 29

1 MR. SCHROEDER: Why don't we just switch
 2 seats. This way you can look at me and you won't
 3 have your back to the reporter, it might make it
 4 easier.
 5 Q. (By Mr. Schroeder) Now, when Mr. Howard called you
 6 in England, he arranged to meet with you here in
 7 the United States?
 8 A. That's correct.
 9 Q. And when did he first meet with you in the United
 10 States, about how long ago?
 11 A. Well, he came to Chicago, and I met him last
 12 Tuesday -- last Wednesday.
 13 Q. About six days ago?
 14 A. Yeah.
 15 Q. And did you discuss with him at that time what had
 16 happened in 1989?
 17 A. Yes.
 18 Q. And he refreshed your recollection?
 19 A. That's correct.
 20 Q. He went over this with you?
 21 A. Yes.
 22 Q. And then you came here to Tulsa?
 23 A. Yes.
 24 Q. When did you come to Tulsa?
 25 A. I came last Saturday.

Page 30

1 Q. And since that time have you been spending your
 2 time with Mr. Howard?
 3 A. That's correct.
 4 Q. And did you also meet with Mr. Brown?
 5 A. We met yesterday.
 6 Q. For how long?
 7 A. About half an hour.
 8 Q. About how today?
 9 A. No, we just walked in the door. We didn't talk.
 10 He never said a word.
 11 Q. Now, let's go back to 1989. Again, you said
 12 there's nothing in writing about this; is that
 13 right?
 14 A. Nothing.
 15 Q. Did you have any agreements with Mr. Howard
 16 relating to events that you've described in 1989?
 17 A. No. I done Mr. Howard a favor by sending him the
 18 hams.
 19 Q. Did you charge him for the hams?
 20 A. Oh, no.
 21 Q. Did you sign anything?
 22 A. Nothing.
 23 Q. Did you agree to anything not in writing?
 24 A. No.
 25 Q. Now, you used the term "Liquid Smoke" today?

Page 31

1 A. That's right.
 2 Q. When did you first become familiar with the term
 3 Liquid Smoke?
 4 A. I think it was around '88 or '89. It was at the
 5 exhibition. I read about it in a magazine, and it
 6 was in at the exhibition and I happened to see it
 7 there.
 8 Q. And what does the term "Liquid Smoke" mean to you?
 9 A. It means that -- I suppose to look at it looks like
 10 a very dark watery liquid smoke.
 11 Q. Can you tell us anything else about it?
 12 A. No. I can't. I'm not a technician, that sort.
 13 Q. Sure. I understand. I just want to know what it
 14 is that you know and what you don't know.
 15 A. I don't know that much about it.
 16 Q. I'm not suggesting that you ought to know anything
 17 that you don't. You talked about the term
 18 "pyrolysis product" earlier today in your
 19 deposition?
 20 A. Pyrolysis, I'm sorry, give me that again.
 21 Q. Pyrolysis product. Should I spell that for you?
 22 A. Are you asking me what it means? I don't know what
 23 it means.
 24 Q. No, I'm not. But you do recall mentioning that?
 25 A. It was mentioned and then I said I wasn't too sure

Page 32

Page 33	Page 35
1 what pyrolysis meant. It's a technical term that I 2 wouldn't be familiar with.	1 having a sunburn going from high to a nice golden 2 brown.
3 Q. So you don't have any way of knowing whether the 4 liquid that Mr. Howard was using in 1989 was a 5 pyrolysis product?	3 Q. Did Mr. Howard ever say anything to you about using 4 this process that he talked about in connection 5 with turkeys or chickens?
6 A. I don't know.	6 A. He hasn't. He didn't. For hams we were doing it 7 then.
7 Q. And then, certainly, you wouldn't know whether it 8 was made from hard wood or sugar?	8 Q. Now, he told you in 1989 that he was treating the 9 hams that you sent him in an oven; is that correct?
9 A. I couldn't know.	10 A. Yes, sir.
10 Q. Or whether it was made from something called 11 Dextrose?	11 Q. And you've described that as a Rapid Flow oven?
12 A. I wouldn't know.	12 A. That is correct.
13 Q. What about the concentration of the Liquid Smoke 14 based on the weight of the meat?	13 Q. Did he use the term "Rapid Flow" in 1989?
15 A. I wouldn't know too much about that.	14 A. I'm not too sure. It was called Rapid Flow then, 15 anyway. We didn't -- he just brought them for his 16 ovens is the expression that was used.
16 Q. Now, could you describe for us the color of the 17 hams that Mr. Howard returned to you after he 18 treated them?	17 Q. Well, do you know what were the characteristics of 18 the oven that Mr. Howard used in 1989?
19 A. A nice golden brown color. When I say nice, I mean 20 it's nice to look at, attractive to look at.	19 A. He had -- I don't understand your question, the 20 characteristics of the oven?
21 Q. Do you remember the words golden brown being used 22 in 1989?	21 Q. Well, can you tell us anything about the way that 22 oven worked?
23 A. I can't remember. That's what I presume. We used 24 the same terminology then as we use now.	23 A. It was about -- approximately a little bit longer 24 than this table. And there was elements inside in 25 a circle. No, the one he had then was blowing hot
Page 34	Page 36
1 A. The patent?	1 air to bring it up to a very high air and high
2 Q. Yes. You have it in front of you.	2 temperature. And it had a stainless steel belt
3 A. Here, you mean?	3 about a couple of feet wide. And you could
4 Q. Yes. Did he show you that?	4 regulate the belt to go fast or slow or you could
5 A. No, he didn't show me that.	5 regulate the heat to go low or high. And I can't
6 Q. He didn't show you the patent?	6 tell you much more than this.
7 A. No. You mean -- no. The first I saw it was here 8 yesterday.	7 Q. Did you see that oven in 1989?
9 Q. Oh, you saw it yesterday?	8 A. I did, yes.
10 A. Yesterday.	9 Q. Now, you talked about a temperature of 500 to 600
11 Q. And did you review it?	10 degrees Fahrenheit?
12 A. I looked through it, but quite frankly, some of it 13 went over my head.	11 A. That's what Mr. Howard told me he used on the hams
14 Q. Did you see the words "golden brown" in the patent?	12 to give them the golden brown color and to get the
15 A. I can't remember.	13 Liquid Smoke to stay on them.
16 Q. Did Mr. Howard use the words "golden brown"?	14 Q. Now, did Mr. Howard mention that temperature to you
17 A. I can't remember that one either.	15 in the discussions you had?
18 Q. How about Mr. Brown, did he use those words?	16 A. He used a very high heat, and ran them through very
19 A. I can't remember that.	17 fast, I believe, is the expression he used.
20 Q. You would like to help Mr. Howard, wouldn't you?	18 Q. When did he say that?
21 A. I certainly would, yes.	19 A. At the time.
22 Q. Would it be fair to say that you can't characterize 23 that color very accurately after all these years?	20 Q. At the time, meaning in '89?
24 A. It has a nice appearance, a golden brown 25 appearance. I was going to make an analogy here of	21 A. Yeah.
	22 Q. And then he went over this with you again when you 23 got here to the United States; is that right?
	24 A. We were talking about it, yes.
	25 Q. So that kind of helps you to remember --

	Page 37	Page 39
1 A. It helps.		1 meeting people and I like to see what is going on
2 Q. -- what happened in 1989?		2 in the world. And Americans are very nice. And I
3 A. Yes.		3 am very surprised that there's not that much fear
4 Q. Even though there's nothing in writing?		4 running through people here. It's much worse in
5 A. No, nothing in writing.		5 London. There's more security, there's more talk
6 Q. What are your plans here in the United States after		6 about the trouble, the problems in the world. The
7 today?		7 Americans are taking it very well.
8 A. I go back on Friday.		8 MR. SCHROEDER: Well, thank you, Mr.
9 Q. Are you staying with Mr. Howard?		9 Corrigan, I have no further questions.
10 A. Staying with Mr. Howard.		10 REDIRECT EXAMINATION
11 Q. As a house guest?		11 BY MR. BROWN:
12 A. As a house guest.		12 Q. I might ask just a couple more.
13 Q. And you never discussed this process with anybody		13 Mr. Corrigan, concerning your recollection of
14 between 1989 --		14 what Mr. Howard described to you in 1989, I would
15 A. I haven't.		15 like to know what you recall apart from any
16 Q. -- and the time that you discussed it with		16 discussions that you had with David Howard or
17 Mr. Howard --		17 anyone since you've been here or on the phone
18 A. I had no occasion to.		18 recently. I'm talking about your own independent
19 Q. Let me just finish the question so we can get it on		19 recollections. I'd like to summarize, if I could,
20 the record.		20 what you testified to earlier, and I'd like for you
21 A. I'm sorry.		21 to tell me if this is your own independent
22 Q. You haven't discussed this process with anybody		22 recollection. As you testified earlier that the
23 between 1989 and the discussion that you had with		23 process Mr. Howard described to you was, first,
24 Mr. Howard on the telephone about three weeks ago?		24 that he take the product, the hams, precooked
25 A. That's correct.		25 hams --
	Page 38	Page 40
1 Q. And then you came to the United States for the		1 MR. SCHROEDER: Object to this question as
2 purpose of giving this testimony that you're giving		2 leading. Go ahead.
3 now?		3 Q. (By Mr. Brown) He took the precooked whole muscle
4 A. I was always coming to see the exhibition, too.		4 hams out of the bag; is that correct?
5 Q. Since you got to the United States, approximately		5 A. That's correct.
6 how many hours have you spent with Mr. Howard?		6 Q. All right. Is that your independent recollection
7 A. I don't know: I could probably work out the hours.		7 of what happened?
8 We spent about six hours a day for four days, 24		8 A. That is my independent recollection.
9 hours. And we spent 24 hours. So it was a couple,		9 Q. And then, I believe, your testimony was that he
10 three hours in the hotel maybe having a meal. And		10 next removed the gelatin or purged material from
11 I have spent the last -- what is today? I have		11 that product with water?
12 spent since Saturday night through the morning with		12 MR. SCHROEDER: Objection; leading.
13 Mr. Howard -- in his house but not in his company		13 A. That's what I have said anyway.
14 all the time. He had to go to his factory and take		14 Q. (By Mr. Brown) Is that correct?
15 care of his business.		15 A. That's my independent recollection, yes.
16 Q. And that's in Oklahoma City?		16 Q. I believe your testimony next was that he dipped
17 A. I don't even know the name.		17 the hams in Liquid Smoke; is that correct?
18 Q. Ponca City?		18 MR. SCHROEDER: Objection; leading.
19 A. The name of -- I've forgotten the name of the area.		19 A. That's correct.
20 Yes, it is in Ponca City. Yeah, it's outside Ponca		20 Q. (By Mr. Brown) Is that your own independent
21 City.		21 recollection?
22 Q. In Oklahoma.		22 A. That's my own independent recollection.
23 A. In Oklahoma. I'm sorry.		23 Q. And I believe your testimony was that he next
24 Q. Have you enjoyed your time here?		24 conveyed the dipped hams through the Rapid Flow
25 A. Very much so, and I enjoy his company and I like		25 oven for five to 10 minutes at a temperature

Page 41	Page 43
1 sufficient to achieve this golden brown color?	1 minutes depending on the size of the ham, of 2 course. And it came out, and he sent me two 3 pieces. And I thought they were very, very good. 4 And I did a test on them, the ham was nice and 5 moist, nice and juicy. The appearance -- the 6 outside appearance of the ham looked very good, 7 which is very important.
2 MR. SCHROEDER: Objection; leading.	8 Q. And that's your own independent recollection of 9 what occurred?
3 Q. (By Mr. Brown) Is that your testimony?	10 A. That's my own independent recollection of what 11 occurred.
4 A. That's my testimony.	12 Q. Has your recollection of that changed in any way 13 upon talking to Mr. Howard?
5 Q. Is that your own independent recollection?	14 A. None whatsoever. In 20 years time, I said if I -- 15 I don't suppose in 20 years of cooking hams. It 16 would still be the same opinion.
6 A. That's my own independent recollection.	17 Q. Has your recollection of that changed in any way 18 talking to me yesterday?
7 Q. What is your own independent recollection of the 8 characteristics of the products which Mr. Howard 9 returned to you?	19 A. None whatsoever. I am only telling the truth.
10 A. The hams that -- the couple of the hams -- a couple 11 of samples that he sent back to me after he had 12 smoked -- dipped them in smoke, they looked very, 13 very -- a lovely golden color, a golden brown 14 color. And they looked nice because they had a 15 skin on them with the smoking heat process. And 16 when I sliced them, they tasted -- the ham itself 17 tasted very, very good, but I thought there was a 18	20 Q. All right. I would like to look at Exhibit 1 again 21 if you would take it. We're going to look at the 22 column 8, again, line 4.
19	23 A. You said column 4 or number four?
20	24 Q. Column 8. It gets confusing, doesn't it?
21	25 A. Yes.
Page 42	Page 44
1 slight metallic taste from the smoke. But the ham 2 itself was nice characteristic appearance on it.	1 Q. It's claim one. And see that's -- it goes by five, 2 but that's line 4. All right. I am going to read 3 this to you once again. I am going to ask you if 4 this is your own independent recollection of the 5 process which Mr. Howard described to you in 1989.
3 The flavor was good. The ham wasn't overcooked, 4 didn't lose much weight.	6 A. Okay.
5 Q. What is your own independent recollection of the 6 other characteristics of the product?	7 Q. Claim one calls for: "A process for browning 8 precooked, whole muscle meat products comprising: 9 Coating a browning liquid pyrolysis product onto at 10 least a portion of the surface of a precooked whole 11 muscle meat product; and then exposing the coated 12 surface to an energy source and selectively heating 13 the coated surface of the whole muscle meat product 14 at a temperature and for a time sufficient to 15 develop a golden brown color on the exposed surface 16 without substantially shrinking the precooked whole 17 muscle meat product."
7 A. Very, very good. It was very successful in regards 8 to test that was done. It didn't lose a lot of 9 weight and had a nice, smooth appearance and nice, 10 golden brown color.	18 Is that your own independent recollection of 19 the process which Mr. Howard described to you in 20 1989?
11 Q. How about moisture?	21 A. That is correct. That is my independent recollection.
12 A. That's what I'm talking about. It was nice and moist very, very -- it hadn't change at all. The hams were very nice going in, anyway, you know.	23 Q. Now, this claim speaks of a browning liquid pyrolysis product. Did Mr. Howard apply a liquid to the hams which you provided?
15 Q. If you would recount for us in your own words 16 according to your own recollection the process that 17 Mr. Howard described to you in 1989?	25
18 A. When he got the hams from me they were in a bag and 19 it was -- the jelly covers the ham anyway. And he 20 cut the bag and washed it -- the jelly off, off 21 with a spray of water. And then he dipped it in 22 the -- he dipped it into the Liquid Smoke and then 23 he put it on the belt that's in the oven. And the 24 oven was heated up at a very high heat, he told me. 25 And then he ran it through between five or seven	

Page 45

1 A. He said he did.
2 Q. And what liquid did he say he applied?
3 A. Liquid Smoke.
4 MR. BROWN: I'll pass the witness again.
5 MR. SCHROEDER: No further questions.
6 MR. BROWN: Mr. Corrigan, you have the
7 option of reading and signing the deposition if you
8 want to check it to make sure there aren't any
9 errors. That's totally your option. I would
10 recommend, given our possible differences in
11 dialects, that you might want to read it just to
12 make sure that everything was taken down correctly,
13 but that's up to you.
14 THE WITNESS: Yes, I'm sure it's all
15 right.
16 MR. BROWN: Do you want to read and sign
17 or do you want to waive?
18 THE WITNESS: I think the young lady is
19 competent in her job.
20 MR. BROWN: I know she is.
21 THE WITNESS: I wouldn't want to go
22 through all of that.
23 (Signature waived.)
24
25

Page 46

1 STATE OF OKLAHOMA CERTIFICATE
2) ss
3 COUNTY OF TULSA)
4 I, Michele Vest, Certified Shorthand Reporter
5 in and for the State of Oklahoma, do hereby certify that
6 on the 23rd day of October, 2001, at the law firm of
7 Fellers, Snider, Blankenship, Bailey & Tippens, 321 South
8 Boston, Tulsa, Oklahoma, appeared the above witness,
9 PAUL CORRIGAN, who was by me duly sworn to testify the
10 truth, the whole truth and nothing but the truth in the
11 case aforesaid and that the deposition by him was reduced
12 by me in stenograph and thereafter transcribed under my
13 supervision, and is fully and accurately set forth in the
14 preceding 46 pages.
15 I do further certify that I am not related to
16 nor attorney for any of the parties hereto or otherwise
17 interested in the event of said action.

18 WITNESS my hand this day of , 2001.
19
20
21 Michele Vest
22
23

24 Original Deposition Cost: \$115.00

25 Paid by the Plaintiffs.

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\$115.00 [1]	46:24	41 [2] 21:22 21:24	beginning [3] 14:22 23:20 23:24	7:7 7:9 8:9
-'-	46 [1] 46:14	always [2] 9:4 38:4	begins [3] 19:19 19:25 21:22	26:1 38:15
	-5-	Americans [2] 39:2 39:7	behave [1] 6:1	butcher [4] 4:6 4:18 5:4 5:16
'86 [1] 26:13	5,952,027 [1] 19:7	analogy [1] 34:25	butchers [1] 6:19	
'87 [2] 26:14 26:24	500 [3] 9:23 14:6 36:9	answer [1] 3:25	-C-	
'88 [1] 32:4		anyway [13] 6:22 11:13 13:13 15:3 15:24 15:24 17:22 26:20 29:2 35:15 40:13 42:14 42:19	C-A-M-D-E-N [1] 3:13	
'89 [9] 26:15 26:16 26:20 26:25 27:1 27:18 29:13 32:4 36:20		apart [2] 26:3 39:15 18:23 34:24 34:25 42:2 42:9 43:5 43:6	C-O-R-R-I-G-A-N [1] 3:11	
-1-	600 [3] 9:23 14:7 36:9	appearance [8] 14:17 18:23 34:24 34:25 42:2 42:9 43:5 43:6	California [1] 1:23 calls [1] 44:7	
1 [7] 2:8 19:1 19:2 19:5 20:16 33:25 43:20	72 [3] 23:15 23:19 23:21	APPEARANCES [1] 1:17	Camden [4] 3:13 3:13 5:18 5:20	
10 [12] 5:23 9:25 12:9 13:24 13:25 14:9 21:22 22:2 22:4 25:7 27:23 40:25	73 [1] 6:11 74103-3318 [1] 1:20	appeared [1] 46:8	Canada [2] 4:16 4:17	
11 [2] 5:7 5:23		application [1] 17:5	care [1] 38:15	
12 [1] 12:10	8 [6] 19:19 19:23 19:23 21:24 43:22	applications [1] 17:7	case [6] 1:6 3:16 19:6 25:18 28:9 46:11	
13 [1] 20:4	43:24	applied [1] 45:2	certainly [2] 33:7 34:21	
14 [1] 19:8	800 [2] 1:14 1:20	apply [1] 44:24	CERTIFICATE [1] 46:1	
15 [2] 5:9 6:16		appreciate [1] 3:22	Certified [2] 1:15 46:4	
16 [3] 4:4 6:16 25:23		apprentice [1] 4:6	Birmingham [2] 8:11 8:12	
17 [1] 25:23		approach [1] 8:8	bit [3] 10:1 29:24	
19 [1] 2:8	90-U [1] 3:14	approver [1] 4:7	black [2] 6:3 18:13	
1989 [23] 10:5 21:7 24:22 27:12 28:2 29:12 29:16 30:16 31:11 31:16 33:4 33:22 35:8 35:13 35:18 36:7 37:2 37:14 37:23 39:14 42:17 44:5 44:20	91105 [1] 1:23	approximate [2] 26:21 26:22	Blankenship [3] 1:14 1:19 46:7	
1999 [2] 19:8 22:14	99 [1] 3:13	area [1] 38:19	blowing [1] 35:25	
-2-		arranged [1] 30:6	Bob [2] 25:17 29:23	
2 [1] 22:8		assignee [1] 19:9	bone [1] 6:7	
20 [3] 5:9 43:14 43:15		Atlanta [3] 17:11 17:12 17:13	Boston [3] 1:14 1:20 46:8	
2001 [3] 1:12 46:6 46:18		attend [1] 29:8	bought [1] 5:2	
23rd [2] 1:11 46:6		attorney [1] 46:16	Boulevard [1] 1:23	
24 [2] 38:8 38:9		attractive [5] 9:5 12:2 12:3 12:6 33:20	bread [2] 12:5 18:18	
-3-		audibly [1] 3:25	break [1] 22:22	
3 [3] 2:3 19:19 19:25		aware [1] 16:14	Bridger [2] 4:12 4:13	
30 [1] 24:1			brief [1] 22:24	
321 [3] 1:14 1:20 46:7			bring [1] 36:1	
350 [1] 1:23			brogue [1] 3:19	
-4-			brother [1] 4:22	
4 [5] 20:3 20:16 43:22 43:23 44:2			Brothers [1] 5:16	
			brought [1] 35:15	
			brown [36] 1:18 2:3 3:6 3:15 9:6 14:18 18:25 19:4 21:3 22:21	
			22:25 25:12 29:23 31:4 33:19 33:21 34:14 34:16 34:18 34:24 35:2 36:12 39:11 40:3 40:14 40:20 41:1 41:3 41:12 41:21 42:10 44:15 45:4 45:6 45:16 45:20	
			bags [1] 11:17	
			Bailey [3] 1:14 1:19 46:7	
			based [1] 33:14	
			batch [1] 23:8	
			batch-type [1] 23:7	
			bath [1] 15:24	
			became [5] 4:5 4:7 7:17 14:12 26:5	
			building [1] 5:7 burning [1] 8:15	

19:25 20:2 21:21	copy [1] 19:15	24:2 36:10	-E-	24:16 38:14
22:2 22:4 22:8	core [4] 23:13 23:23	Delaware [1] 1:8	easier [2]	Fahrenheit [4] 14:7
44:1 44:7 44:23	24:22 24:25	delivered [1] 17:24	14:8 24:2 36:10	
closing [1] 5:11	corporation [3] 1:3	Dennis [2] 1:18	fair [2] 6:12 34:22	
coated [6] 20:9	1:4 1:8	3:15	familiar [6] 16:18	
20:10 20:25 21:1	correct [23] 6:14	depending [1] 43:1	16:20 16:21 16:23	
44:11 44:13	14:5 14:11 18:15	deposition [9] 1:10	32:2 33:2	
Coating [3] 20:6	22:20 23:3 25:19	2:6 19:1 19:2	fares [1] 7:16	
20:22 44:9	25:21 27:9 29:19	19:5 32:19 45:7	farming [1] 4:5	
cold [1] 23:25	29:22 30:8 30:19	46:11 46:24	fast [2] 36:4 36:17	
color [17] 9:1	31:3 35:9 35:12	describe [11] 9:12	fat [2] 11:11 11:11	
9:7 10:2 12:2	37:25 40:4 40:5	11:3 11:9 11:13	favor [1] 31:17	
12:7 14:4 14:18	40:14 40:17 40:19	12:11 14:17 14:24	fear [1] 39:3	
21:3 33:16 33:19	44:21	15:4 15:8 15:10	Federal [1] 1:12	
34:23 36:12 41:1	correctly [1] 45:12	33:16	feet [1] 36:3	
41:21 41:22 42:10	corresponding [1]	described [14] 16:10	Fellers [3] 1:13	
44:15	25:7	16:12 18:3 21:7	1:19 46:7	
Colorado [1] 1:23	Corrigan [21] 1:10	21:18 22:13 24:21	few [2] 6:25 6:25	
column [8] 19:19	3:1 3:7	31:16 35:11 39:14	figure [1] 11:22	
19:23 19:23 21:24	3:24 4:2	39:23 42:17 44:5	finish [1] 37:19	
21:25 43:22 43:23	5:16 6:10 18:2	44:19	firm [5] 9:7 10:22	
43:24	19:4 19:11 21:6	description [1] 13:14	10:24 15:5 46:6	
coming [3] 28:9	21:21 22:25 25:17	develop [2] 21:3	first [8] 6:15 12:14	
29:2 38:4	29:25 39:9 39:13	44:15	16:24 27:11 30:9	
companies [1] 4:18	45:6 46:9	Dextrose [1] 33:11	32:2 34:7 39:23	
company [9] 4:7	Cost [1] 46:24	dialects [1] 45:11	five [11] 9:25 9:25	
4:19 4:19 4:20	COUNTY [1] 46:3	differences [1] 45:10	13:24 13:25 14:9	
5:15 18:2 18:4	couple [13] 4:21	dip [3] 13:3 13:9	23:18 25:7 26:10	
38:13 38:25	7:4 7:18 8:13	dipped [12] 11:25	40:25 42:25 44:1	
competent [1] 45:19	8:22 8:25 14:13	12:15 12:22 12:25	flavor [3] 9:2	
comprising [3] 20:6	22:25 36:3 38:9	13:15	Flow [12] 9:19	
20:22 44:8	39:12 41:18 41:18	dipping [2] 15:20	9:20 9:21 16:6	
con [1] 30:2	course [8] 3:22	16:7	16:19 16:20 22:18	
CONAGRA [1] 1:7	3:23 6:7 23:2	Direct [2] 2:3	28:12 35:11 35:13	
concentration [1]	23:25 25:25 28:14	3:5	35:14 40:24	
33:13	43:2	discuss [5] 15:16	follows [4] 3:4	
concerning [2] 16:9	court [4] 1:1 28:9	27:10 27:24 29:12	20:4 20:20 22:7	
39:13	28:17 28:18	30:15	Food [2] 1:2 3:16	
confusing [1] 43:24	cover [1] 19:9	discussed [3] 37:13	foods [4] 1:3	
connection [1] 35:4	covers [1] 42:19	37:16 37:22	1:7 3:17 18:9	
contact [1] 9:15	CROSS [1] 25:15	discussion [1] 37:23	forgotten [1] 38:19	
contacted [1] 28:4	crumb [1] 18:19	discussions [5] 27:2	forth [1] 46:13	
continuous [2] 9:18	crumbs [2] 12:5	27:20 29:17 36:15	Fortress [1] 5:21	
9:19	18:17	39:16	forty [1] 24:2	
controls [1] 23:17	curing [1] 11:7	distinctive [1] 3:19	four [8] 5:6 8:23	
conveyed [1] 40:24	customers [1] 7:1	DISTRICT [2] 1:1	11:21 11:22 16:1	
cook [3] 11:5 24:9	cut [1] 42:20	1:1	24:20 38:8 43:23	
24:11	 -D-	doesn't [1] 43:24	France [3] 7:22	
cooked [13] 4:9	D [1] 1:18	done [6] 9:10 13:13	8:2 8:5	
6:6 6:7 8:22	d/b/a [1] 1:7	15:18 25:25 31:17	Frankfort [2] 17:10	
11:2 11:6 17:8	dark [1] 32:10	42:8	Frankfurt [1] 8:6	
17:9 17:10 17:11	date [2] 26:21 26:22	door [1] 31:9	frankly [1] 34:12	
23:3 23:18 24:17	dates [1] 10:6	down [7] 5:10	fresh [2] 6:9 18:12	
cooker [19] 8:15	David [5] 1:25	6:21 8:25 14:13	Friday [1] 37:8	
9:8 9:11 9:13	6:15 10:14 12:6	17:20 20:15 45:12	fridge [2] 10:17	
9:13 9:15 9:17	39:16	Downers [1] 19:10	friend [1] 25:22	
13:7 16:6 23:21	days [2] 30:13 38:8	drains [1] 6:20	friends [4] 7:17	
24:6 24:7 24:8	dealing [1] 9:16	dried [1] 15:1	26:5 26:6 26:7	
24:13 24:19 25:3	decided [1] 4:22	drying [2] 15:20	front [1] 34:2	
25:4 25:6 28:12	Defendant [2] 1:9	16:4	full [1] 3:7	
cooking [12] 11:12	1:22	due [1] 14:22		
17:2 17:13 17:14	degree [1] 14:7	duly [2] 3:2 46:9		
17:16 17:17 23:12	degrees [3] 9:23			
23:20 23:24 26:12				
27:4 43:15				
cooler [1] 23:17				

CORRIGAN-DIRECT-BROWN

CondenseltTM

fully - minutes							
fully [1] 46:13	Harry [1] 4:13	impinging [1] 22:9	16:15	16:17	21:8	machine [2] 13:21	17:1
-G-	head [2] 4:1	34:13	26:18			magazine [1] 32:5	
gelatin [1] 40:10	heard [1] 17:8	18:10 43:7				Manchester [3] 8:10	8:11 17:19
German [2] 10:22	heat [8] 9:23	13:22				manufacturer [2] 4:9	4:10
10:24	14:1 14:8	36:5				mark [1] 18:25	
Germany [5] 7:19	36:16 41:23	42:24				marked [2] 19:3	19:5
7:21 7:22	heated [1] 42:24					market [2] 16:25	18:9
8:6	heating [3] 20:10					material [1] 40:10	
given [1] 45:10	21:1 44:12					may [1] 18:15	
giving [2] 38:2	heavy [1] 9:23					meal [1] 38:10	
38:2	help [4] 6:24	22:1				mean [7] 19:14	21:20 25:4
	23:19 34:20					33:19 34:3	32:8 34:7
goes [3] 20:3	helps [2] 36:25					meaning [3] 21:9	21:11 36:20
44:1	37:1					means [3] 32:9	32:22 32:23
golden [15] 9:6	hereby [1] 46:5					meant [1] 33:1	
14:18 21:3	hereto [1] 46:16					meat [17] 4:10	
33:21 34:14	high [10] 5:19	13:22				5:4 5:10	6:13
34:24 35:1	14:8 25:11	35:1				20:5 20:8	20:21
41:1 41:21	36:1 36:1	36:5				20:24 21:2	21:5
42:10 44:15	36:16 42:24					23:25 24:4	33:14
good [10] 14:3	hill [2] 5:11	5:24				44:8 44:11	44:13
15:3 15:18	himself [1] 15:18					medium [1] 22:10	
25:14 41:25	history [1] 4:3					meet [6] 6:15	7:15
42:7 43:3	hit [1] 23:21					29:11 30:6	30:9
gotcha [1] 24:18	hot [1] 35:25					31:4	
Grove [1] 19:10	hotel [1] 38:10					meeting [2] 27:14	39:1
guest [2] 37:11	hour [1] 31:7					memory [1] 28:1	
	hours [9] 10:18					mention [1] 36:14	
	23:18 24:20	38:6				mentioned [11] 8:14	8:19 9:22
	38:7 38:8	38:9				10:10 10:13	10:19
	38:9 38:10					12:18 18:15	23:2
	house [5] 26:8					32:25	
	26:9 37:11	37:12				mentioning [1] 32:24	
	38:13					mesh [1] 10:16	
	Howard [63] 1:25					met [3] 25:19	30:11
	6:15 7:3	7:6				31:5	
	7:14 8:8	10:7				metallic [2] 14:21	42:1
	11:1 11:16	11:20				method [1] 12:24	
	12:11 15:16	15:19				Michele [4] 1:15	3:22 46:4
	16:10 16:12	16:16				microwave [1] 22:11	
	17:24 18:3	21:7				middle [1] 21:25	
	21:16 21:20	22:13				might [4] 7:1	
	24:21 26:4	26:13				30:3 39:12	45:11
	27:3 27:3	27:11				miles [1] 5:18	
	27:13 28:4	28:17				mind [2] 22:21	27:25
	33:17 33:25	34:16				minimal [1] 41:8	
	34:20 35:3	35:18				Minnesota [1] 1:4	
	36:11 36:14	37:9				minutes [8] 9:25	13:24 13:25
	37:10 37:17	37:24				14:10 16:1	14:10 25:7
	38:6 38:13	39:14				40:25	
	39:16 39:23	41:16					
	42:17 43:13	44:5					
	Howard's [2] 25:23						
	29:7						
	hundred [1] 14:7						
	hygienic [2] 10:19						
	11:19						
	-I-						
	Illinois [2] 1:3						
	19:10						
	immigrated [1] 4:8						
						-M-	

FRANK L. PETERSON REPORTING SERVICE * (918) 745-0303**

Index Page 3

moist [3]	18:14	21:25	43:23	ovens [1]	35:16	present [2]	1:25	+5:5
42:13 43:5				overcook [1]	14:2	quick [1]	13:23	
moisture [3]	14:25	Numbers [1]	2:7	overcooked [1]	42:3	quickly [1]	9:24	
15:1 42:11		nylon [3]	11:4	own [20]	5:5 7:7	quite [5]	6:25 9:16	
moment [1]	5:13		11:17 11:18	18:14 29:6	39:18	17:1 26:19	34:12	
morning [1]	38:12	-O-		39:21	40:20 40:22			
most [2] 9:3	18:18	Object [1]	40:1	41:5	41:6 41:12	-P-	-R-	
mostly [1]	17:8	Objection [4]	40:12	41:14	41:15 42:5	presuming [1]	21:14	radiation [2]
moved [1]	10:7	40:18	41:2	42:15	42:16 43:8	primarily [1]	18:16	22:12
muscle [13]	12:8	objects [1]	17:3	43:10	44:4 44:18	probe [2]	23:16	rails [1]
12:9 20:5	20:8	observe [1]	14:14			23:16		raise [2]
20:21	20:24	observed [3]	14:15				25:2	ran [6]
21:5 40:3	44:8	17:4 17:7					9:11 9:21	13:21 13:23
44:11 44:13	44:17	occasion [3]	17:19				36:16	42:25
Muzzle [1]	5:24	27:10 37:18						rang [1]
		occurred [5]	8:2					Rapid [12]
		10:3 10:4	43:9					9:19
		43:11						9:20 9:21
		October [2]	1:12					16:6 16:20
		46:6						22:18
		off [12]	11:13 11:14					28:12 35:11
		11:15 12:14	12:16					35:14 40:24
		12:17 12:18	14:21					rather [1]
		15:23 16:4	42:20					3:25
names [1]	7:1	offices [1]	1:13					raw [3]
necessary [1]	19:16	Oklahoma [10]	1:1					24:3
need [1]	29:24	1:15 1:16	1:20					24:6
net [2]	24:18	38:16 38:22	38:23					read [8]
nets [1]	24:12	46:2 46:5	46:8					19:20 20:2
never [3]	25:19	old-fashion [1]	10:15					20:2 22:5
31:10 37:13		once [2]	7:15					44:2 45:11
new [1]	12:24	one [30]	3:14					45:16
next [8]	7:13 13:20	4:7						reading [1]
19:24 22:5	40:10	4:19 4:23	5:13					reads [3]
40:16 40:23	41:7	5:19 5:19	5:20					20:4
nice [31]	3:19 9:3	5:20 5:21	5:21					real [1]
9:6 9:7	12:1	5:22 5:23	5:24					11:22
14:4 14:16	14:18	6:7 7:22	7:22					really [2]
14:18 14:20	15:2	8:12 16:24	19:20					8:3
15:5 15:6	18:14	20:3 20:13	20:14					received [1]
18:19 18:19	18:23	23:2 23:16	28:14					15:9
33:19 33:19	33:20	34:17 35:25	44:1					recent [1]
34:24 35:1	39:2	44:7						29:17
41:22 42:2	42:9	ones [1]	16:24					recently [1]
42:9 42:12	42:14	onto [3]	20:7	20:23				39:18
43:4 43:5		44:9						recess [1]
niche [1]	18:11	opinion [2]	14:4					22:24
night [1]	38:12	43:16						recollection [22]
None [2]	43:14	option [2]	45:7					30:18 39:13
43:19		45:9						39:22
nor [1]	46:16	orders [2]	6:25					40:6 40:8
normal [1]	23:25	7:3						40:21 40:22
Northwest [1]	3:14	ordinary [1]	6:6					41:5
notes [1]	27:6	Original [1]	46:24					41:6 41:13
nothing [9]	3:3	otherwise [1]	46:16					41:14
27:8 27:21	31:12	ought [1]	32:16					41:15 42:5
31:14 31:22	37:4	outside [4]	14:19					42:16
37:5 46:10		23:17 38:20	43:6					43:8 43:10
now [20]	6:8 10:22	9:18						43:12
13:2 16:9	16:23	oven [17]	16:19 16:19	22:9				44:4
25:22 27:2	28:4	22:9 22:18	22:19					44:18
29:6 29:16	30:5	22:20 35:9	35:11					44:22
31:11 31:25	33:16	35:18 35:20	35:22					recollections [1]
33:24 35:8	36:9	36:7 40:25	42:23					39:19
36:14 38:3	44:23	42:24						recommend [1]
number [3]	19:20							45:10

relating [1]	31:16	45:5	slight [1]	42:1	29:13	Swift-Eckrich [3]
relationship [1]	26:4	seats [1] 30:2	slightly [1]	14:21	spot [1] 20:18	1:7 19:10 25:18
relying [1]	28:1	second [2]	slow [1] 36:4	spray [3]	spray [1] 12:17	switch [1]
remember [6]	33:21	4:20	slower [1]	12:17 42:21	12:17 42:21	sworn [2]
33:23 34:15	34:17	security [1]	slowly [1]	Spraying [1]	12:19	46:9
34:19	36:25	see [16] 7:16	small [8]	sprinkle [1]	18:22	Systems [3]
remembrance [1]	15:25	9:15	5:10 5:13	SS [1]	46:2	3:17 3:17
removed [1]	40:10	16:25	6:25	stainless [4]	6:20	
reporter [3]	1:16	17:18 19:25	17:2 18:4	7:4	7:5	-T-
30:3	46:4	20:1	18:5	stand [1]	36:2	
represent [1]	3:15	21:22 21:24	smoke [46]	stands [1]	7:25	table [1]
representing [1]	25:18	32:6	8:15	start [2]	7:25	35:24
residence [2]	3:12	34:14 36:7	8:16 8:17	18:22	20:14	tables [2]
14:9	38:4	38:4	9:6	started [5]	4:20	7:4
residue [2]	11:7	39:1 44:1	10:10 10:12	5:6	5:6	taking [3]
11:9	44:4	selectively [3]	10:20 11:25	5:10	5:10	28:18 39:7
respect [1]	14:25	20:10	12:7	starting [1]	6:18	taste [2]
result [1]	41:9	21:1 44:12	13:1 13:1	starts [1]	20:16	14:21
retained [1]	15:1	sell [3]	13:2	state [4]	1:16	tasted [2]
returned [3]	17:25	4:22	13:3 13:4	46:2	3:7	41:25
33:17	41:17	6:18	13:9 13:16	States [10]	3:7	technical [1]
review [1]	34:11	7:2	13:17	10:8 29:1	32:1	technician [1]
right [18]	10:2	selling [3]	14:22	30:7 30:10	37:24	telephone [1]
13:19	14:11	8:18	15:21	37:6 38:1	29:18	telephoned [1]
25:10	26:1	10:12 10:20	16:7 21:13	38:5	26:11	
26:14	27:17	send [2]	21:13 23:5	stay [2]	43:19	
29:16	31:13	8:22	23:6	26:8	temperature [16]	
31:13	32:1	sent [11]	24:15 24:20	26:9	14:6 21:2	
36:23	36:23	8:25	28:11 31:25	23:14 23:23	23:2	
40:6	41:11	11:1 11:2	32:3	24:1 24:23	23:23	
43:20	44:2	11:16	33:13	steel [5]	24:2 25:8	
rinsed [1]	15:23	14:13 15:9	36:13 40:17	36:2	36:2 36:14	
rise [1]	25:8	29:15	41:20	stenograph [1]	40:25	
Road [8]	3:13	35:9	42:1 42:22	46:12		
5:19	5:20	41:19	45:3	still [5]	20:13	
5:21	5:21	separate [1]	se smoked [3]	21:4	21:2	
5:22	5:23	23:10	10:11	21:14	23:12	
roasting [1]	9:8	September [1]	10:18 41:20	23:14		
ROBERT [1]	1:22	service [1]	smoker [2]	24:1 24:23		
Roberts [1]	5:20	18:12	24:19	24:25		
roughly [1]	29:14	set [2]	smoking [8]	25:2		
Rules [1]	1:12	23:17	10:14	25:8		
run [3]	12:1	46:13	10:15 17:16	36:9		
23:15	14:1	seven [2]	17:18	36:14		
running [2]	9:5	42:25	18:4 18:8	44:14		
39:4		shiny [1]	23:13	Ten [1]	21:23	
<hr/>						
-S-						
samples [1]	41:19	shop [5]	smooth [1]	stayed [1]	26:9	
Saturday [2]	30:25	4:18	42:9	staying [2]	37:9	
38:12		5:1 5:13	Snider [3]	37:10		
sausage [5]	4:9	4:23	1:13	steel [5]	6:19	
5:8	5:13	6:18	1:19 46:7	6:20	6:20	
6:9		shops [12]	social [2]	7:4	7:5	
sausages [4]	6:3	4:22	26:6	stenograph [1]	36:2	
17:2	17:9	4:25 5:1	26:7	46:12		
saw [3]	18:12	5:4	soft [1]	still [5]		
34:9	34:7	5:7	15:6	21:14		
says [1]	20:18	5:10	soggy [1]	21:17		
school [1]	4:4	5:11	sold [2]	21:18		
Schroeder [14]	1:22	5:17	solution [1]	21:19		
22:23	25:14	18:21	sometimes [1]	22:10		
25:17	25:16	Shorthand [2]	sorry [7]	22:12		
30:1	30:5	1:16	19:22	22:13		
39:8	40:1	46:4	20:12	22:17		
40:12	40:12	46:17	22:1 28:7	39:20		
41:2	41:10	show [4]	32:20	23:1 41:7		
41:10		33:25	37:21 38:23			
<hr/>						
-S-						
sign [2]	31:21	sign [2]	sort [2]	substantially [2]	3:2	
Signature [1]	45:23	45:16	18:17	21:4 44:16	43:4	
signing [1]	45:7	45:23	32:12	successful [2]	14:19	
simple [1]	16:25	sources [1]	source [7]	21:20		
Singh [1]	19:8	South [3]	20:10	sufficient [4]	16:8	
sinks [4]	6:20	1:14	20:25 22:8	21:3 41:1	21:10	
6:20	7:4	1:20 46:7	22:10	44:14		
skin [2]	9:7	speaks [2]	44:23	sugar [1]	33:8	
41:23	41:24	29:24	specific [1]	suggested [1]	12:6	
sliced [2]	14:19	3:20	26:16	suggesting [1]	32:16	
slicing [1]	18:22	38:8	18:20	Suite [2]	1:14	
		38:9	22:11 22:11	1:20	2:20	
		38:10	44:12	summarize [2]	4:2	
		38:11	44:13	39:19	39:19	
		38:12	44:15	sunburn [1]	35:1	
		38:13	44:16	supermarkets [2]	5:12	
		38:14	44:17	supervision [1]	18:7	
		38:15	44:18	suppose [3]	46:13	
		38:16	44:19	surface [11]	7:15	
		38:17	44:20	20:8	10:22	
		38:18	44:21	20:9 20:10	41:25	
		38:19	44:22	20:25 21:1		
		38:20	44:23	21:4		
		38:21	44:24	22:1 23:1		
		38:22	44:25	23:2 24:1		
		38:23	44:26	24:2 25:1		
		38:24	44:27	25:2 26:1		
		38:25	44:28	26:2 27:1		
		38:26	44:29	27:2 28:1		
		38:27	44:30	27:3 28:2		
		38:28	44:31	28:3 29:1		
		38:29	44:32	29:2 30:1		
		38:30	44:33	30:2 31:1		
		38:31	44:34	31:2 32:1		
		38:32	44:35	32:2 33:1		
		38:33	44:36	33:2 34:1		
		38:34	44:37	34:2 35:1		
		38:35	44:38	35:2 36:1		
		38:36	44:39	36:2 37:1		
		38:37	44:40	37:2 38:1		
		38:38	44:41	38:3 39:1		
		38:39	44:42	39:2 40:1		
		38:40	44:43	40:2 41:1		
		38:41	44:44	41:2 42:1		
		38:42	44:45	42:2 43:1		
		38:43	44:46	43:2 44:1		
		38:44	44:47	44:2 45:1		
		38:45	44:48	45:2 46:1		
		38:46	44:49	46:2 47:1		
		38:47	44:50	47:2 48:1		
		38:48	44:51	48:2 49:1		
		38:49	44:52	49:2 50:1		
		38:50	44:53	50:2 51:1		
		38:51	44:54	51:2 52:1		
		38:52	44:55	52:2 53:1		
		38:53	44:56	53:2 54:1		
		38:54	44:57	54:2 55:1		
		38:55	44:58	55:2 56:1		
		38:56	44:59	56:2 57:1		
		38:57	44:60	57:2 58:1		
		38:58	44:61	58:2 59:1		
		38:59	44:62	59:2 60:1		
		38:60	44:63	60:2 61:1		
		38:61	44:64	61:2 62:1		
		38:62	44:65	62:2 63:1		
		38:63	44:66	63:2 64:1		
		38:64	44:67	64:2 65:1		
		38:65	44:68	65:2 66:1		
		38:66	44:69	66:2 67:1		
		38:67	44:70	67:2 68:1		
		38:68	44:71	68:2 69:1		
		38:69	44:72	69:2 70:1		
		38:70	44:73	70:2 71:1		
		38:71	44:74	71:2 72:1		
		38:72	44:75	72:2 73:1		
		38:73	44:76	73:2 74:1		
		38:74	44:77	74:2 75:1		
		38:75	44:78	75:2 76:1		
		38:76	44:79	76:2 77:1		
		38:77	44:80	77:2 78:1		
		38:78	44:81	78:2 79:1		
		38:79	44:82	79:2 80:1		
		38:80	44:83	80:2 81:1		
		38:81	44:84	81:2 82:1		
		38:82	44:85	82:2 83:1		
		38:83	44:86	83:2 84:1		
		38:84	44:87	84:2 85:1		
		38:85	44:88	85:2 86:1		
		38:86	44:89	86:2 87:1		
		38:87	44:90	87:2 88:1		
		38:88	44:91	88:2 89:1		
		38:89	44:92	89:2 90:1		
		38:90	44:93	90:2 91:1		
		38:91	44:94	91:2 92:1		
		38:92	44:95	92:2 93:1		
		38:93	44:96	93:2 94:1		
		38:94	44:97	94:2 95:1		
		38:95	44:98	95:2 96:1		
		38:96	44:99	96:2 97:1		
		38:97	44:100	97:2 98:1		
		38:98	44:101	98:2 99:1		
		38:99	44:102	99:2 100:1		
		38:100	44:103	100:2 101:1		
		38:101	44:104	101:2 102:1		
		38:102	44:105	102:2 103:1		
		38:103	44:106	103:2 104:1		
		38:104	44:107	104:2 105:1		
		38:105	44:108	105:2 106:1		
		38:106	44:109	106:2 107:1		
		38:107	44:110	107:2 108:1		
		38:108	44:111	108:2 109:1		
		38:109	44:112	109:2 110:1		
		38:110	44:113	110:2 111:1		
		38:111	44:114	111:2 112:1		
		38:112	44:115	112:2 113:1		
		38:113	44:116	113:2 114:1		
		38:114	44:117	114:2 115:1		
		38:115	44:118	115:2 116:1		
		38:116	44:119	116:2 117:1		
		38:117	44:120	117:2 118:1		
		38:118	44:121	118:2 119:1		
		38:119	44:122	119:2 120:1		
		38:120	44:123	120:2 121:1		
		38:121	44:124	121:2 122:1		
		38:122	44:125	122:2 123:1		
</						

12:1	13:21	13:22	7:18	8:21	17:19	Woodgreen [1]	5:23
14:1	16:5	25:6	25:11	27:13	27:19	word [2]	15:7
25:6	34:12	36:16	28:9	29:15	36:1	words [6]	19:19
38:12	39:4	40:24	42:24	45:13		33:21	34:14
42:25	45:22					34:18	34:16
times [3]			used [25]		8:14	worked [5]	
26:9	26:10		11:4	11:6	11:10	4:15	
Tippens [3]			12:4	12:4	16:19	4:18	5:5
1:19	46:7		17:1	17:4	17:13	35:22	
today [7]			18:13	18:18	18:24	world [2]	
26:11	31:8	31:25	21:12	22:17	23:15	39:6	
32:18	37:7	38:11	23:15	31:25	33:21	worse [1]	
together [2]			33:23	35:16	35:18	writing [6]	
26:1			36:11	36:16	36:17	27:8	31:12
too [10]			using [4]		31:23	37:4	31:23
8:23	15:5	15:22	18:5	33:4	35:3		
18:24	32:25	33:15				wrong [1]	
35:14	38:4					14:5	
took [6]							
8:24	11:13						
11:14	17:9	28:15					
40:3							
top [1]							
18:22							
totally [1]							
45:9							
Town [1]							
5:18							
trade [1]							
7:16							
transcribed [1]							
46:12							
treated [1]							
33:18							
treating [1]							
35:8							
tried [1]							
9:2							
trouble [1]							
39:6							
truth [7]							
3:2							
3:3							
43:19							
46:10							
try [1]							
3:20							
Tuesday [1]							
30:12							
Tulsa [6]							
1:15							
1:20	30:22	30:24					
46:3	46:8						
turkeys [1]							
35:5							
turn [1]							
19:18							
twang [1]							
3:20							
twice [1]							
7:15							
two [9]							
4:5							
4:18	4:19	5:1					
8:5	8:6	8:7					
43:2							
type [4]							
6:5							
18:10	18:16						
types [3]							
7:3							
18:9	22:14						
<hr/>							
-U-							
under [2]							
13:7							
46:12							
understand [4]							
13:8							
23:19	32:13	35:19					
United [10]							
1:1							
10:7	29:1	29:21					
30:7	30:9	36:23					
37:6	38:1	38:5					
Unitherm [5]							
1:2							
3:16	7:6	7:10					
16:19							
up [13]							
5:7							
5:7							
<hr/>							
-V-							
Vest [3]			1:15	46:4			
			46:21				
			vs [1]	1:6			
<hr/>							
-W-							
waive [1]							
			45:17				
waived [1]							
			45:23				
walked [1]							
			31:9				
wash [2]			11:14				
			12:16				
washed [3]			11:14				
			12:14	42:20			
water [5]			11:12				
			12:20	12:21	40:11		
			42:21				
watery [1]							
			32:10				
wavelength [1]							
			22:10				
Wednesday [1]							
			30:12				
week [1]			18:1				
weeks [4]							
			27:16				
			27:19	28:5	37:24		
weigh [2]							
			15:12				
			15:15				
weight [3]							
			33:14				
			42:4	42:9			
west [2]							
			1:23				
WESTERN [1]							
			1:1				
wet [2]							
			15:23				
whatsoever [3]							
			16:13				
			43:14	43:19			
wherein [1]							
			22:8				
white [3]							
			6:3				
			9:4	18:13			
whole [16]							
			3:3				
			11:18	12:8	12:9		
			20:5	20:8	20:21		
			20:24	21:1	21:5		
			40:3	44:8	44:10		
			44:13	44:16	46:10		
wide [1]							
			36:3				
without [2]							
			21:4				
			44:16				
witness [8]							
			25:13				
			28:10	45:4	45:14		
			45:18	45:21	46:8		
			46:18				
wood [2]							
			8:15				
			33:8				

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Index Page 6

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PTO-003825

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

UNITHERM FOOD SYSTEMS, INC.,)
an Illinois Corporation,)
and JENNIE-O FOODS, INC.,)
a Minnesota Corporation,)

Plaintiffs,) Case No. CIV-01-347-C
vs.)
SWIFT-ECKRICH, INC., d/b/a)
CONAGRA REFRIGERATED FOODS,)
a Delaware Corporation,)

Defendant.)

Holiday Reporting Service, Inc.
COURTESY COPY

DEPOSITION OF

MICHAEL BRIGGS

Taken on behalf of the Plaintiffs on Wednesday, October 17, 2001, from 1:45 p.m. to 8:00 p.m., at Willow Brook Foods, 405 N. Jefferson, in the City of Springfield, County of Greene, State of Missouri, before

PATRICIA L. SNIDER,
a Free-lance Court Reporter and a Notary Public within and for the County of Greene, and State of Missouri, in a certain cause now pending before the United States District Court for the Western District of Oklahoma.